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11 **UNITED STATES DISTRICT COURT—NORTHERN DISTRICT OF CALIFORNIA**
12 **SAN FRANCISCO DIVISION**

13 MELANIE BERMAN, JULIA HAWKINS, LISA
14 JONES, LYON LEIFER, AND KATHLEEN
CANFIELD LOFTUS,

15 Plaintiffs,

16 v.

17 23ANDME, INC.

18 Defendant.

19 Case No.: 3:23-cv-05345-EMC

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21 **NOTICE RE UPCOMING MEDIATION**

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1 Plaintiffs MELANIE BERMAN, JULIA HAWKINS, LISA JONES, LYON LEIFER,
 2 AND KATHLEEN CANFIELD LOFTUS, file this notice to underscore their similar concerns
 3 with the rushed mediation raised in Plaintiff David Melvin and J.L.'s motion to appoint interim
 4 leadership in these actions. *See Melvin v. 23andMe, Inc.*, No. 2024-cv-0048, dkt. 4 (N.D. Cal. Jan.
 5 26, 2024). There has been no self-ordering of the plaintiffs' firms involved in these cases, no
 6 leadership structure, and no substantive exchange of information prior to the mediation. Making
 7 matters worse, Defendant 23andMe, Inc. is pushing forward a mediation that suffers from all of
 8 the flaws pointed out by the *Melvin* brief and more.

9 Courts are increasingly calling out rushed settlements of significant cases. *See In re*
 10 *TikTok Consumer Privacy Litig.*, MDL No. 2948, dkt. 316 (N.D. Ill. Jan. 25, 2024) ("The court
 11 notes the speed at which the original MDL was settled and the at-least-facially unorthodox
 12 manner in which this settlement was reached. It is not unusual for a case of such significance to
 13 be vigorously litigated for years; yet here the Original Plaintiffs reached a settlement in principle
 14 only nine days after the JPML issued its consolidation order.").¹ This case should take a different
 15 course, not only because every Class deserves competent representation, but also because it
 16 concerns the undersigned that there does not appear to be a full appreciation among all counsel of
 17 the unique harms presented in this case. Plaintiffs have also highlighted the issues unique to this
 18 data breach case. (Doc. 2, Compl. ¶¶ 3-12).

19 For that reason, Plaintiffs request that that the Court set an expedited briefing schedule on
 20 the motion to appoint interim leadership. The *Melvin* plaintiffs' motion and a Court-ordered
 21 briefing schedule may itself prompt efficient self-ordering among the firms which is presently
 22 impossible given what's proceeding with the mediation. And even if the Court must appoint
 23 leadership, at the very least the Class will be thoughtfully represented and a race to the bottom via
 24 a premature mediation prevented.

25 **CONCLUSION**

26 ¹ The settlement had in fact received final approval before a prior judge, but is
 27 generating satellite litigation about the scope of that settlement. Follow-on issues are just one of
 28 the problems Plaintiffs hope to avoid with leadership here.

1 Plaintiffs MELANIE BERMAN, JULIA HAWKINS, LISA JONES, LYON LEIFER,
2 AND KATHLEEN CANFIELD LOFTUS, request that the Court enter an expedited briefing
3 schedule on interim leadership.

4 Dated: January 30, 2024

5 Respectfully submitted,

6 **LOFTUS & EISENBERG, LTD.**

7 By: /s/Ross M. Good
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